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March 6, 2008

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

*Hearing Officer's Decision*

Name of Case: Personnel Security Hearing

Date of Filing: September 18, 2007

Case Number: TSO-0545

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to retain his access authorization.<sup>1/</sup> The regulations governing the individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual is eligible for access authorization. After reviewing the evidence before me, I find the Individual's access authorization should not be restored.

*I. Background*

A. Notification Letter

This administrative review proceeding began when a Department of Energy (DOE) Office, suspended the Individual's access authorization based upon derogatory information in its possession that created substantial doubt pertaining to his continued eligibility. In accordance with 10 C.F.R. § 710.21, the DOE Office subsequently issued a Notification Letter that included a statement of the derogatory information causing the security concern.

The security concerns cited in the Letter involve the Individual's false statements, his use of alcohol, and his numerous arrests. The Notification Letter stated that the Individual made false statements during a February 26, 2007, Personnel Security Interview (PSI) and

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<sup>1/</sup> Access authorization (or security clearance) is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5(a).

to a DOE consultant psychiatrist in 2000.<sup>2/</sup> First, the DOE Office claims that the Individual made false statements during the February 26, 2007, PSI when he denied that he had ever attended Alcoholics Anonymous (AA) or taken medication for alcohol treatment. In previous PSIs and psychiatric evaluations, the Individual admitted he had attended AA and taken Antabuse, a medication used in the treatment of alcohol addiction. Secondly, the DOE contends that the Individual made false statements during a May 2000 psychiatric evaluation when he denied a family history of alcohol use. He had previously admitted that two paternal uncles died due to alcohol use. These admissions took place in PSIs conducted in October 27, 1999, October 31, 1991, and January 23, 1989. He made similar admissions in psychiatric evaluations conducted on January 28, 1992, and September 20, 1989. In addition, during his most recent psychiatric evaluation in May 2007, he admitted that his two uncles died of excessive alcohol use. According to the Notification Letter, these two instances of making false statements constitute derogatory information under 10 C.F.R. § 710.8(f) (hereinafter Criterion F).<sup>3/</sup>

The second security concern cited in the Letter indicates that the Individual has been diagnosed by two DOE consultant psychiatrists as suffering from alcohol abuse. In addition, the Notification Letter relies on the Individual's numerous alcohol-related arrests and/or charges. According to the Notification Letter, the Individual's alcohol misuse and diagnosis constitute derogatory information under 10 C.F.R. § 710.8(h) & (j) (hereinafter Criterion H and Criterion J).<sup>4/</sup>

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<sup>2/</sup> During the hearing, the DOE Counsel stipulated that the third incident of derogatory information cited in the Notification Letter in connection with Criterion F was not an issue. Tr. at 130. This derogatory information related to the Individual's 1989 denial that alcohol was involved in a 1985 charge for Careless and Imprudent Driving. Because the DOE Counsel stipulated that it was not at issue at the hearing, I will not address it in this Decision.

<sup>3/</sup> Criterion F refers to information indicating that an individual "deliberately misrepresented, falsified, or omitted significant information from a Personnel Security Questionnaire, a Questionnaire for Sensitive (or National Security) Positions, a personnel qualifications statement, a personnel security interview, written or oral statements made in response to official inquiry on a matter that is relevant to a determination regarding eligibility for DOE access authorization." 10 C.F.R. § 710.8(f).

<sup>4/</sup> Criterion H refers to information indicating that an individual has "an illness or mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause, a significant defect in judgment or reliability." 10 C.F.R. § 710.8(h). Criterion J refers to information indicating that an individual has "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." *Id.* at § 710.8(j).

The third security concern cited in the Notification Letter indicates that the Individual was arrested in February 1983, April 1986, May 1986, October 1997, and October 2006, for Driving While Intoxicated (DWI).<sup>5/</sup> According to the Notification Letter, these arrests constitute derogatory information under 10 C.F.R. § 710.8(l) (hereinafter Criterion L).<sup>6/</sup>

#### B. DOE Consultant Psychiatrists' Evaluations

The first DOE consultant psychiatrist evaluated the individual on May 5, 2000. In his report, he diagnosed the Individual as suffering from alcohol abuse in sustained partial remission. The first DOE consultant psychiatrist further indicated that the Individual "has shown significant evidence of rehabilitation through the divorce recovery workshop." DOE Ex. 17 at 6. The second DOE consultant psychiatrist evaluated the individual on May 1, 2007. In his report, he diagnosed the Individual as suffering from alcohol abuse. The second DOE consultant psychiatrist indicated that the Individual reported that he had last consumed alcohol three weeks prior to the interview. DOE Ex. 16 at 5. Both DOE consultant psychiatrists stated that the Individual should not consume any alcohol. DOE Ex. 16 at 8; DOE Ex. 17 at 6.

In his report, the second DOE consultant psychiatrist indicated that in order to establish rehabilitation, the Individual should either produce documented evidence of attendance at AA for a minimum of 100 hours with a sponsor, at least two times a week for a minimum of one year, or complete a minimum of 50 hours of a professionally led, alcohol abuse treatment program, for a minimum of six months, including aftercare. The second DOE consultant psychiatrist concluded that adequate evidence of reformation would be either two years of absolute abstinence, if the Individual attends either AA or a treatment program as outlined above, or three years of absolute abstinence if the Individual does not attend one of those two programs.

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<sup>5/</sup> The October 2006 charge was Driving Under the Influence. At the hearing, the DOE Counsel stipulated that the second and third elements of derogatory information cited in the Notification Letter in connection with Criterion L were not at issue. Tr. at 130. The derogatory information related to the Individual's failure to report three of the alcohol-related arrests, although he had signed a security acknowledgment in 1994 and 1980 certifying that he understood he was required to report all arrests. Because the DOE Counsel stipulated that the Individual's failure to report the three arrests was not at issue at the hearing, I will not address it in this Decision.

<sup>6/</sup> Criterion L refers to information indicating that the Individual has "engaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy." *Id.* at § 710.8(l).

### C. The Hearing

The Notification Letter informed the Individual that he was entitled to a hearing before a Hearing Officer, in order to respond to the information contained in that letter. Upon receipt of the Notification Letter, the Individual requested a hearing, and that request was forwarded to the Office of Hearings and Appeals (OHA). I was appointed the Hearing Officer in this matter. In accordance with 10 C.F.R. § 710.25(e) and (g), the hearing was convened.<sup>7/</sup>

At the hearing, the Individual was represented by an attorney. The Individual testified on his own behalf, and presented the testimony of his AA sponsor, the Operations Director at his outpatient treatment program, a life-long friend, and a co-worker. The DOE Counsel presented one witness, the second DOE consultant psychiatrist. The DOE Counsel entered 42 exhibits into the record. The Individual entered six exhibits into the record.

## II. *The Hearing Testimony*

At the hearing, the Individual's attorney stipulated to the diagnosis of the second DOE consultant psychiatrist that the Individual suffered from alcohol abuse. Hearing Transcript (Tr.) at 8. Accordingly, the focus of the hearing was on the steps that the Individual has taken toward reformation and rehabilitation, and on his honesty and trustworthiness. The witnesses' testimony was directed toward those matters.

### A. The Individual

The Individual admitted that he has abused alcohol in the past. Tr. at 83-84. He testified that on October 27, 2006, he was arrested for his Driving While Intoxicated (DWI). Tr. at 86. The Individual testified that he last consumed alcohol on Easter of 2007. Tr. at 92. Three weeks later, he was evaluated by the second DOE consultant psychiatrist. Tr. at 92. His interview with the second DOE consultant psychiatrist convinced him that he needed help with his problem with alcohol. Tr. at 93-94.

On June 25, 2007, he attended his first AA meeting. Tr. at 95. He presented a copy of his AA journal showing he has attended 153 AA meetings since June 25, 2007. Ind. Ex. A. About one month into his attendance at AA, he asked his sponsor to work with him. Tr. at 97. In September 2007, the Individual began chairing AA meetings on Monday evenings. Tr. at 98. The Individual stated that, in his opinion, AA provides the opportunity for a group of men and women "to come together and to work with each other and find a

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<sup>7/</sup> 10 C.F.R. § 710.25(g).

common ground for their disease and help each other work through these steps, and encourage and support one another.” Tr. at 101.

The Individual testified that he contacted his attorney in July 2007 to ask him to represent him at the hearing. Tr. at 105. He testified that his attorney told him that abstinence was a requirement of his representation. Tr. at 106. He stated that he never intends to consume alcohol again. Tr. at 107. He testified that he is committed to AA because it

feels like I have a place to – share my disease and help other people who share the same disease, and they help me in turn by sharing our – our common ground and places we’ve been and – and then how to set a good foundation today and work toward, you know, our future without alcohol.

Tr. at 108. He is not embarrassed to tell someone that he is a recovering alcoholic. Tr. at 108. AA is part of his lifestyle now. Tr. at 111. The Individual testified that

I’m finding a lot of actually relief, and I’ve found a different way of – it’s actually opened up a different way of thinking, clarity of mind. It’s given me through the steps tools, they call them to kind of take all the things from the past that, I guess, I was in suppression, and stuffing, and putting away deep down, and not actually taking care of those situations and those – those behaviors, these feelings. And it gives me an outlet. It gives me a new – new lease on life, actually.

Tr. at 111-12. He testified that to deal with life’s stress, he has the AA program and a good sponsor. Tr. at 113. He has close family members and close friends who know his problem with alcohol. Tr. at 113.

The Individual testified that his misstatements during the PSI were unintentional. Tr. at 122. He testified that there was no point in denying that he had attended AA in the past or had taken medication for alcohol treatment prior to the PSI, because he knew DOE was aware of both facts. Tr. at 122-23. He stated that during May 1, 2000, interview with the first DOE consultant psychiatrist when he was asked about relatives who may have had a problem with alcohol, he thought he was being asked about immediate family. Tr. at 125. He did not understand that he was being asked about his uncles. Tr. at 126.

The Individual concluded his testimony by stating that with his father’s death in November 2006, he has a new role to fill. Tr. at 161. His mother’s well-being is his responsibility. Tr. at 161-62. He takes care of the house and yard, as his father used to do. Tr. at 162. He is a single parent and wants to be a good role model for his 16-year-old son. Tr. at 162. It is especially important to him now that his son is driving. Tr. at 162. He does not want his son to follow in his footsteps. Tr. at 162.

### B. The Individual's Life-Long Friend

The Friend testified that he and the Individual have been friends since they were 12 years old, a period of 34 years. Tr. at 11. He described their current relationship as very close, great friends. Tr. at 12. He stated that they communicate all the time. Tr. at 12. He stated that he has not seen the Individual consume alcoholic beverages since Spring 2007, nor has he smelled alcohol on his breath. Tr. at 15, 19-20. The Friend testified that he and the Individual have socialized approximately a dozen times since the Individual told him he stopped consuming alcoholic beverages at Easter 2007. Tr. at 16, 19. They have fished together and watched football on television at the Friend's house, during which the Friend consumed alcoholic beverages, but the Individual did not. Tr. at 19-20. The Friend stated that he knows the Individual has been attending Alcoholic Anonymous (AA). Tr. at 17. The Friend testified that he has seen a change in the Individual since he began attending AA. Tr. at 17.

The Friend testified that he has never known the Individual to be dishonest. Tr. at 26. The Individual "always tried to do the right thing." Tr. at 27. The Friend stated that even growing up the Individual would not "follow me into something he knew was not right." Tr. at 27.

### C. The Individual's AA Sponsor

The Individual's AA Sponsor testified that he met the Individual at AA in June 2007. Tr. at 31. The Sponsor meets with the Individual regularly to work the 12 steps of the AA program. Tr. at 34. The Sponsor testified that he believes the Individual is sincere in his participation in the AA program. Tr. at 32. The Individual has "jumped into this with both feet, . . . And he's really been consistent with the meetings, and he just has been freely - free with his information we've been sharing together." Tr. at 32. The Sponsor testified that he believes the Individual has been very honest and open with him. Tr. at 45. The Sponsor has sponsored approximately 30 people in the past of which approximately 50 percent have succeeded in the AA program. Tr. at 38. The Sponsor believes that the Individual is committed enough to his sobriety that even with stress in his life, he will remain with the AA program. Tr. at 39.

### D. The Co-Worker

The Co-Worker testified that they have known each other for 10 years. Tr. at 50. They work in the same job classification and talk while working and during break time. Tr. at 50. The Co-Worker did not testify to any contact outside of work. During the past several months prior to the hearing, the Co-Worker noticed through conversation with the Individual that the Individual is committed to AA. Tr. at 53. The Individual told the Co-Worker that he is an alcoholic and that he is committed to his sobriety. Tr. at 53. The Co-

Worker stated that he sees the Individual reading his AA books daily at work. Tr. at 53. The Co-Worker testified that the Individual seems more lively and fun to be with since the spring of 2007. Tr. at 56. The Co-Worker also testified that the Individual is an honest, hardworking individual. Tr. at 50.

#### E. The Operations Director

The Operations Director testified that the Individual began the intensive outpatient treatment program on September 17, 2007, and was discharged from the treatment program on October 5, 2007. Tr. at 60. Success in the program means that the Individual was timely, present every day, and completed all his treatment plan objectives. Tr. at 63. The Individual completed approximately 60 hours in the outpatient program. Tr. at 64. The Operations Director testified that the Individual's chart indicates that the Individual was prescribed and took Antabuse.<sup>8/</sup> Tr. at 63.

The Individual has continued in the program's voluntary aftercare program, attending weekly, since being discharged from the outpatient program. He last attended one week prior to the hearing. Tr. at 62. The Operations Director testified that the Individual's attitude during his treatment has been good. Tr. at 65. He was cooperative, timely, participated in group discussion, and completed his treatment plan objectives. Tr. at 65. The Operations Director stated that the Individual's behaviors are "indicative for sure of someone that is demonstrating a desire for recovery." Tr. at 68.

#### F. The Second DOE Consultant Psychiatrist

The second DOE consultant psychiatrist testified that he found the Individual very convincing and truthful at the hearing. Tr. at 164. He indicated that the Individual's parenting of his son and his relationship with his mother were impressive, even during the May 2007 interview. Tr. at 164. The Individual's AA sponsor also impressed the second DOE consultant psychiatrist. Tr. at 165. He believes that the Individual has enough of a safety net that a single episode of drinking will not take the Individual back to drinking at the level he was previously. Tr. at 168. The second DOE consultant psychiatrist indicated that the Individual's job pressure is a benefit. Tr. at 166. He indicated that the Individual's attorney was an asset. Tr. at 166. The fact that the Individual has begun to lead AA meetings is also positive and shows his commitment to AA. Tr. at 173. He believes that the Individual is sincere in his commitment to AA.

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<sup>8/</sup> Antabuse produces a sensitivity to alcohol which results in a highly unpleasant reaction when an individual taking the medication consumes alcoholic beverages. *Antabuse*, New York State Office of Alcoholism and Substance Abuse Services. February 20, 2008 <http://www.oasas.state.ny.us/AdMed/meds/antabuse.cfm>

However, the second DOE consultant psychiatrist also testified that the Individual was still in denial about his alcohol consumption in May when he interviewed him. Tr. at 166. Further, the second DOE consultant psychiatrist was concerned that the Individual had persuaded three prior Psychiatrists that he was going to change his alcohol consumption and he did not. Tr. at 164. The second DOE consultant psychiatrist continued that he heard the same information at the hearing as the Individual told the other psychiatrists, with only one difference being the Individual's involvement in AA. Tr. at 164-65. Finally, the Individual has a long record of trouble with the law because of his alcohol consumption. Tr. at 166.

When asked whether the Individual would relapse and begin consuming alcoholic beverages again in the future, the second DOE consultant psychiatrist opined that he was cautiously optimistic that the Individual would not have a relapse. Tr. at 167. Further, he stated that if he had a single episode relapse, the Individual has enough support to recover from that one episode. Tr. at 167.

When questioned regarding the length of time required for rehabilitation or reformation, the second DOE consultant psychiatrist agreed that *The Diagnostic and Statistical Manual of the American Psychiatric Association, IVth Edition Textual Revisions* (DSM-IV TR) requires a 12-month period of sobriety for a finding that an individual is in "sustained full remission." Tr. at 169-70. However, the second DOE consultant psychiatrist reiterated that there is a difference between being in sustained full remission and being rehabilitated and/or reformed. He regularly requires a two-year period of abstinence for a finding of rehabilitation or reformation in DOE security cases. Tr. at 170. The second DOE consultant psychiatrist stressed that the Individual has consumed alcoholic beverages heavily for 30 years. Tr. at 168. Furthermore, the Individual is one of the worst cases of alcohol abuse that the second DOE consultant psychiatrist has interviewed. Tr. at 169.

He indicated that the Individual may want to consider continuing on Antabuse, which the Individual had been prescribed while he was in the outpatient treatment program Tr. at 168. Antabuse stays in a person's system for one to two weeks after taking the last dose, thereby requiring an individual to stop taking the medication for a substantial time prior to consuming alcohol.<sup>9/</sup> Tr. at 168. The second DOE consultant psychiatrist indicated the delay gives someone a chance to change his or her mind about resuming consumption of alcohol prior to doing so. Tr. at 168. Antabuse prevents "spur of the moment driving by the bar or even going to a bar and drinking a [soda] but friends are drinking beer, and just

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<sup>9/</sup> An individual taking Antabuse should wait at least one week before consuming alcohol. Further reactions with alcohol may occur for up to three weeks after ingesting Antabuse. *Disulfiram*, Medline Plus, U.S. National Library of Medicine, National Institutes of Health. February 20, 2008 <http://www.nlm.nih.gov/medlineplus/druginfo/medmaster/a682602.html>



that temptation.” Tr. at 173. It is a medication that could be taken for life with few side effects. Tr. at 174.

### *III. Standard of Review*

A DOE administrative review proceeding under 10 C.F.R. Part 710 is not a criminal case, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. In this type of proceeding, we apply a different standard, which is designed to protect national security interests. A hearing is “for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization.” 10 C.F.R. § 710.21(b)(6). The burden is on the individual to come forward at the hearing with evidence to convince the DOE that granting or restoring his access authorization “would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d).

This standard implies that there is a strong presumption against the granting or restoring of a security clearance. See *Dep’t of Navy v. Egan*, 484 U.S. 518, 531 (1988) (the “clearly consistent with the interests of the national security test” for the granting of security clearances indicates that “security-clearance determinations should err, if they must, on the side of denials.”) *Dorfman v. Brown*, 913 F.2d 1399, 1403 (9<sup>th</sup> Cir. 1990) (strong presumption against the issuance of a security clearance). Consequently, it is necessary and appropriate to place the burden of persuasion on the individual in cases involving national security issue. *Personnel Security Hearing* (Case No. VSO-0002), 24 DOE ¶ 82,752 at 85,511 (1995).

Once a security concern has been found to exist, the individual has the burden of going forward with evidence to rebut, refute, explain, extenuate, or mitigate the allegations. *Personnel Security Hearings* (Case No. VSO-0005), 24 DOE ¶ 82,753 (1995), *aff’d*, 25 DOE ¶ 83,013 (1995). See 10 C.F.R. § 710.7(c).

### *IV. Findings and Conclusions*

As noted above, the Individual in this case does not dispute the diagnosis of alcohol abuse. Therefore, with respect to the Criteria H and J concerns, the issue in this case is whether the Individual has demonstrated that he is reformed and/or rehabilitated from alcohol abuse. The other two issues in this case are whether the Individual is honest and trustworthy, and whether he intentionally made false statements during the February 26, 2007, PSI and to the first DOE consultant psychiatrist in 2000.

#### *A. Criteria H and J*

The Individual admitted that he has an alcohol problem that raises a security concern. Therefore at the hearing, the testimony focused on the Individual’s rehabilitation and/or

reformation. The Individual attempted to show that he is no longer consuming alcohol and therefore is not a threat to the national security. I believe the Individual is sincere in his commitment to AA. His friend testified that he speaks of his involvement in AA often. His Co-Worker testified that they speak of AA often and the Individual is frequently reading his AA books. The Individual's Sponsor stated that the Individual seems sincere in his commitment and has been open and honest with him in their conversations. The second DOE consultant psychiatrist stated that the Individual's leading of AA meetings shows a sincere commitment to the program. The Operations Director stated that the Individual seemed to be committed to the AA program. I also believe the Individual's claims that he has been abstinent since the Spring of 2007. He testified that he last consumed alcoholic beverages on Easter 2007. His Friend testified that he has not smelled alcohol on the Individual's breath or seen him consume alcohol since the Spring of 2007. The Co-Worker testified that the Individual seems to be happier. The Sponsor stated that he believes the Individual has been open and honest about not consuming alcohol. The Operations Director testified that the Individual seemed to be committed to his sobriety. Finally, the second DOE consultant psychiatrist testified that he found the Individual very convincing, sincere in his desire to remain abstinent, and truthful at the hearing.

Despite the positive changes in the Individual's life, I believe that he has not been involved with AA nor been abstinent for enough time. He had been abstinent for a period of about eight months at the time of the hearing. He joined AA about five and a half months prior to the hearing date. He attended the outpatient treatment program from September 17 to October 6, 2007. Although the second DOE consultant psychiatrist testified that he is cautiously optimistic about the Individual's risk of relapsing, he did not revise his recommendation that the Individual maintain abstinence for two years while attending either AA with a sponsor or a professionally lead treatment program, nor did he revise his recommendation that the Individual maintain abstinence for three years without such a program.

Therefore, while I believe that he is sincere in his commitment to his sobriety and AA, I find that at the time of the hearing, the Individual did not have enough time committed to AA and abstinence. Consequently, I find that the concern raised by the second DOE consultant psychiatrist's diagnosis of alcohol abuse has not been mitigated by the evidence provided by the Individual.

#### B. Criterion L

The Notification Letter finds that the Individual's numerous alcohol-related arrests, which occurred in October 2006, October 1997, July 1991, May 1986, April 1986, and February 1983, raise a Criterion L concern. Given the Individual's failure to fully mitigate the concern raised by his consumption of alcoholic beverages, I cannot find that the concerns raised under Criterion L are mitigated at this time.

C. Criterion F

The Notification Letter states that the Individual made false statements, first during the PSI conducted on February 26, 2007, and secondly to the first DOE consultant psychiatrist in May 2000, both of which raise a security concern under Criterion F. During the February 26, 2007, PSI, the Individual stated that he had never attended AA or taken medication for alcohol treatment. However, the Individual made previous statements to DOE, during PSIs conducted in October 1999, October 1991, and January 1989 and during psychiatric evaluations in May 2007, May 2000, and September 1989, that he had attended AA and taken Antabuse.<sup>10/</sup> According to the Notification Letter, these false statements raise a concern regarding the Individual's honesty.

At the hearing, the Individual testified that he believed he had been asked if he was attending AA and taking Antabuse as of February 26, 2007, and that he had no reason to lie. Tr. at 122. However, I find that the transcript of the PSI is clear that he was asked if he had attended AA or taken medication in the past.

Q. . . . Have you *ever* attended, uh, Alcoholic Anonymous?

A. No.

Q. Have you *ever* taken any medication for alcohol treatment?

A. No.

DOE Ex. 38 at 39-40 (emphasis added). I find that the concern raised by the Individual's false statements at his February 26, 2007, PSI has not been mitigated by the Individual's claim that he misunderstood the question being asked of him and that he had no reason to lie during the PSI. *Personnel Security Hearing* (Case No. TSO-0443), 29 DOE ¶ 83,069 (2007); *Personnel Security Hearing* (Case No. VSO-0281), 27 DOE ¶ 82,821 (1999), *affirmed*, 27 DOE ¶ 83,030 (OHA April 10, 2000), *terminated* (OSA May 30, 2000); *Personnel Security Hearing* (Case No. VSO-0099), 26 DOE ¶ 82,759 (1996), (*affirmed* OSA 1996).

The May 2000 falsification involves a statement the individual made to the first DOE consultant psychiatrist in which he denied having any family members who had abused alcohol. Yet, during a May 1, 2007, interview with the second DOE consultant psychiatrist and in previous PSIs, the Individual admitted that two of his uncles died from alcohol use.

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<sup>10/</sup> The derogatory information which supports the Notification Letter had the incorrect date for one of the psychiatric evaluations. The date of the psychiatric report was June 26, 2000. The actual evaluation interview took place May 5, 2000.

At the hearing, the individual testified that he did not understand the first DOE consultant psychiatrist's question regarding alcohol use in his family to include his uncles. Further, the Individual had readily admitted to his uncles' excessive alcohol use in psychiatric evaluations and PSIs that took place both before and after the psychiatric evaluation of 2000. I find that the alleged falsification is remote in time, having occurred in 2000, that he readily admitted this falsification to the DOE under other circumstances, and that the misstatement seems to have occurred only once. I therefore am persuaded that the Individual has mitigated the concern under Criterion F raised by this misstatement.<sup>11/</sup>

## **V. Conclusion**

As the foregoing indicates, the Individual has not resolved the Criteria F, H, J, and L security concerns cited in the Notification Letter. Therefore, I must conclude that the Individual has not shown that restoring his access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Consequently, it is my decision that the Individual's access authorization should not be restored at this time. The Individual may seek review of this decision by an Appeal Panel. 10 C.F.R. § 710.28(b)-(e).

Janet R. H. Fishman  
Hearing Officer  
Office of Hearings and Appeals

Date: March 6, 2008

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<sup>11/</sup> In addition, there is at least one inaccuracy in the report in that it stated that the Individual told the first DOE consultant psychiatrist that his son was in the Marines. His son was 10 years old in 2000.